

AMENDED IN ASSEMBLY APRIL 12, 2012

AMENDED IN ASSEMBLY MARCH 28, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1872**

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**Introduced by Assembly Member Alejo**

February 22, 2012

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An act to add ~~Section~~ *Sections 1596.812 and 1597.50* to the Health and Safety Code, relating to ~~family day care homes~~ *child day care facilities*.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1872, as amended, Alejo. ~~Family day care homes~~: *Child day care facilities*: nutrition.

Existing law, the California Child Day Care Facilities Act, administered by the State Department of Social Services, provides for the licensure and regulation of child day care facilities, defined to include, among others, family day care homes. Under existing law, the department may assess a civil penalty of no more than \$50 per day, with exceptions, for violations of the act relating to family day care homes. Willful or repeated violation of these provisions is a misdemeanor.

This bill would require, except as provided, a family day care home to adhere to certain nutrition standards in the provision of meals and snacks. The bill would require the department to take specified actions with respect to noncompliance with these provisions, ~~and would require the department to disseminate certain information to prospective and current providers~~. The bill would exempt a family day care home from

criminal and civil penalties for noncompliance with these provisions and other provisions relating to noncompliance.

*The bill would require the department to inform prospective and current child day care providers about the above-described nutrition requirements by posting certain information on the department's Internet Web site, and by disseminating information by other means deemed appropriate by the department.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Nearly 25 percent of children between two and five years  
4 of age in California are overweight or obese and at risk of  
5 developing chronic diseases that contribute to escalating health  
6 costs.

7 (b) Research demonstrates that taste preferences and lifelong  
8 nutrition habits are formed in early childhood years.

9 (c) The recent changes to improve school nutrition should be  
10 complemented with changes to the nutritional environment in child  
11 day care facilities.

12 (d) Research demonstrates that the nutritional environment in  
13 child day care facilities could be improved by encouraging  
14 appropriate portion size and a healthy balance of dairy, fruits and  
15 vegetables, whole grains, and proteins.

16 (e) ~~More than~~ Almost 50 percent of the ~~nearly~~ approximately  
17 50,000 licensed ~~child~~ day care centers and licensed family day  
18 care homes in California, which serve more than 500,000 children,  
19 do not participate in the federal Child and Adult Care Food  
20 Program (CACFP), often because ~~child care~~ providers lack  
21 adequate information about this nutrition program.

22 (f) ~~Child care centers and family day care homes may receive~~  
23 ~~up to \$1,200 per child and \$1,100 per child, respectively, in federal~~  
24 ~~CACFP reimbursements each year, but over 5,000 licensed child~~  
25 ~~care centers and 5,000 licensed family day care homes do not~~  
26 ~~receive these much-needed reimbursements. A child care center~~  
27 ~~serving 100 children could receive over \$100,000 per year in~~  
28 ~~federal CACFP reimbursements, and a family day care home~~

1 ~~serving five children could receive over \$5,000 per year in federal~~  
2 ~~CACFP reimbursements for serving nutritious meals. While over~~  
3 ~~\$200,000,000 in CACFP funding was provided to California child~~  
4 ~~care centers last year, and over \$100,000,000 in CACFP funding~~  
5 ~~was provided to family day care homes last year, tens of millions~~  
6 ~~of dollars in CACFP reimbursements would be provided if more~~  
7 ~~child care centers and family day care homes participated in the~~  
8 ~~CACFP.~~

9 *(f) Day care centers may receive up to \$1,260 per child in*  
10 *federal CACFP reimbursements each year, but over 5,000 licensed*  
11 *day care centers do not receive these much needed reimbursements.*  
12 *More specifically, a day care center serving 50 children could*  
13 *receive over \$63,000 per year in federal CACFP reimbursements*  
14 *for serving nutritious meals. While over \$123,000,000 in federal*  
15 *CACFP funding was provided to California day care centers in*  
16 *the 2010–11 fiscal year, tens of millions of dollars more in federal*  
17 *CACFP reimbursements would flow into California if more day*  
18 *care centers participated in the program.*

19 *(g) Family day care homes may receive up to \$1,062 per child*  
20 *in federal CACFP reimbursements each year, but over 16,000*  
21 *family day care homes do not receive these much needed*  
22 *reimbursements. More specifically, a family day care home serving*  
23 *five children could receive over \$5,310 per year in federal CACFP*  
24 *reimbursements for participating in the program. While over*  
25 *\$101,000,000 in CACFP funding was provided to California family*  
26 *day care homes in the 2010–11 fiscal year, tens of millions of*  
27 *dollars more in federal CACFP reimbursements would flow into*  
28 *California if more family day care homes participated in the*  
29 *program.*

30 ~~(g)~~  
31 *(h) The State of California has a strong policy and financial*  
32 *interest in the licensed child care system and in the health and*  
33 *safety of children while they are engaged in that system.*

34 *SEC. 2. Section 1596.812 is added to the Health and Safety*  
35 *Code, to read:*

36 *1596.812. For the purposes of improving nutrition in child day*  
37 *care facilities, as defined in Section 1596.750, and increasing*  
38 *providers' capacity to serve healthy foods, the department shall*  
39 *inform prospective and current providers about the United States*  
40 *Department of Agriculture Child and Adult Care Food Program*

(CACFP) (7 C.F.R. 226.20) by posting information relating to eligibility, enrollment, and reimbursement on the department's Internet Web site, and by disseminating information by other means deemed appropriate by the department. These means may include, but are not limited to, orientation materials, during regular inspections, and through written communications to licensees.

~~SEC. 2.~~

SEC. 3. Section 1597.50 is added to the Health and Safety Code, to read:

1597.50. (a) Except as provided in subdivisions (b) and (c), a family day care home shall ensure that any meals and snacks provided by the family day care home include, at a minimum, the amount of food and the components that are specified by the United States Department of Agriculture Child and Adult Care Food Program (CACFP) (7 C.F.R. 226.20).

(b) If a child has a medical necessity, documented in writing by a medical provider, that includes the need for "medical food" as defined by Section 109971, a licensed family day care facility shall be exempt from complying with the requirements of subdivision (a), to the extent necessary to meet the medical needs of that child.

(c) This section shall not apply to meals or snacks provided by a parent or legal guardian for his or her child at a family day care home.

(d) Family day care homes shall, on an annual basis, self-certify to the department whether the licensee understands the nutrition standards required by this section and the family day care home's progress toward compliance.

(e) The department shall review the status of compliance with this section only during regularly scheduled, authorized monitoring inspections, and shall not be required to conduct separate and independent visits. If the department determines that a family day care home is noncompliant with this section, the department shall recommend to the family day care home relevant nutrition information and training.

~~(f) For the purposes of improving nutrition in family day care homes and child day care facilities generally and increasing providers' capacity to serve healthy foods, the department shall inform prospective and current providers about the CACFP by posting information relating to eligibility, enrollment, and~~

1 reimbursement on the department's Internet Web site, and by  
2 disseminating information by other means deemed appropriate by  
3 the department. These means may include, but are not limited to,  
4 orientation materials, during regular inspections, and through  
5 written communications to licensees.

6 ~~(g) Sections 1596.56, 1596.62, and 1596.890~~

7 *(f) Article 5 (commencing with Section 1596.89) of Chapter 3.4,*  
8 *Sections 1597.56, 1597.58, and 1597.62 shall not apply to this*  
9 *section. The compliance procedures described in subdivision (e)*  
10 *shall supersede any other compliance procedures required by this*  
11 *chapter or by any other law for the duties imposed by this section.*

12 *(g) The requirements imposed by this section are in addition*  
13 *to, and are not intended to replace, the requirements prescribed*  
14 *by Section 1596.808.*